



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**

(Implements RCW 34.05.310)

Do NOT use for expedited rule making

Agency: Department of Ecology

A.O. # 06-09

**Subject of possible rule making:** This rulemaking proposes to adopt requirements for mercury emissions from coal-fired power plants into Chapter 173-406 WAC. A new federal rule establishes a national cap on mercury emissions and gives each state a mercury budget. States may adopt the federal rules or they may adopt rules that are more stringent. The rule will establish Washington State requirements in lieu of the federal rule, opting out of mercury trading and establishing emission standards through a phased approach. A major part of this rulemaking will be developing a methodology to distribute allocated mercury emission credits in Washington State. Requirements for new units under the NSPS program will be adopted by reference, and adopting more stringent requirements may be considered. This action will also change the name of the rule from the Acid Rain Rule to the Electric Generating Unit Rule, adopt the federal requirements for the Acid Rain Program by reference, and delete the existing duplicative state rule language.

**Statutes authorizing the agency to adopt rules on this subject:** RCW 79.94.331 and RCW 70.94.141

**Reasons why rules on this subject may be needed and what they might accomplish:** These rules will implement the federal Clean Air Mercury Rules adopted by EPA in May 2005. The federal rules have state air agency requirements that begin in 2006 and source specific requirements that begin in 2009. EPA's scheme will apply in Washington State if we fail to adopt our own rules by November 2006. We intend to submit the rules developed in this process to EPA for approval by mid-February 2007. The state rules will substitute for the federal rules once EPA approves the submittal. The Washington State rules will establish our procedure to distribute allocated mercury emissions to coal-fired power plants and determine when emissions trading will and will not be allowed in Washington. Establishing a stringent emission limit would be part of the mercury emissions distribution plan and will require Trans Alta, currently the sole coal-fired power plant in Washington, to install controls to meet the limit.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** EPA Region 10, EFSEC, as the agency responsible for permitting new energy facilities in Washington, and to a lesser degree, CTED, will be involved in this effort. They will be part of the stakeholder group assisting with the rule development effort.

**Process for developing new rule (check all that apply):**

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study

☒ Other (describe) This rulemaking is to amend an existing rule. Amendments to the rule will be drafted and reviewed internally and by an advisory group. The public will be provided with the opportunity to comment on the proposed rule. At least 1 public hearing will be held. The proposed amendments will be posted on the agency website and provided to parties that have identified themselves as interested parties.

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:** Interested parties can access more information on this rulemaking by contacting the Ecology staff member listed below or accessing the Ecology website: <http://www.ecy.wa.gov/law/rules/index.html>

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DATE  
June 5, 2006

NAME (TYPE OR PRINT)  
Stuart Clark

SIGNATURE

TITLE  
Air Quality Program Manager

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